

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7469 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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G S R T C

Versus

ASHWINBHAI C SEJPAL

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Appearance:

MR HS MUNSHAW for Petitioner

MR HK RATHOD for Respondent No. 1

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CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 21/02/97

ORAL JUDGEMENT

In this petition, the petitioner Gujarat State Road Transport Corporation (Corporation) has challenged the order and award recorded by the Industrial Tribunal at Bhavnagar, on 25.4.96, whereby, the part of the reference in relation to an industrial dispute was allowed. The respondent is an employee of the Corporation working as a conductor. The respondent was involved in financial

irregularities at different stages. He was imposed penalties for three different default cases for different charges and in different proceedings. The reference was made in respect the industrial dispute of all the three defaults and imposition of penalties. Therefore, the reference was in respect of all the three orders recorded in the departmental inquiry.

The petitioner Corporation has thus imposed penalties against the respondent workman for three different default cases for different charges involving financial irregularities. The orders of penalties were passed by the employer Corporation. The said orders of penalties were passed on 24.2.81, 29.8.83 and 30.5.84 in three different proceedings through which penalties of imposition of stoppage of three increments with permanent effect, and putting the respondent workman in the lowest minimum pay scale respectively were imposed. The respondent challenged the said orders by raising one reference in respect of three different penalty orders being Reference No.(IT) 38/93 before the Industrial Tribunal, Bhavnagar. After hearing the parties and considering the facts and circumstances, the Industrial Tribunal, has passed the impugned award on 25.4.96 setting aside the order of the Competent Authority of the petitioner Corporation and imposed minor penalty of stoppage of two increments without future effect. Therefore, the petitioner has challenged the impugned award by filing this petition.

Learned advocate Mr Munshaw for the petitioner Corporation has contended that the orders of penalty in the departmental inquiries were justified and the penalty imposed were not disproportionate to the delinquencies established against the workman. He also submitted that in one reference it was not proper and legal to adjudicate and decide three different disputes imposing penalties by three different order of three different instances. These contentions are countenanced by the learned advocate Mr Rathod for the respondent workman. It may be noted that the powers of the Labour Court or the Industrial Tribunal under section 11-A are very wide and discretionary. If it is found that there is no evidence to substantiate the delinquencies and there is perversity in the order, the decision recorded in the departmental inquiry could be quashed. It is also open for the Labour Court or the Tribunal to substitute the punishment in place of the one recorded in a domestic inquiry. The Industrial Tribunal, in the present case, has quashed the orders of penalties recorded on 24.2.81 and 29.8.83 in the domestic inquiry and substituted the

third penalty with that of stoppage of two increments without future effect.

Prima facie, the contention that one reference in respect of three penalties for three different instances wherein there is delay of 9 years, 10 years and 12 years appears to be justified. Ordinarily, the reference may be made in respect of industrial dispute occasioned out of one incident. However, since the industrial Tribunal has already been dealt with and decided one reference involving three industrial disputes this Court is not inclined to interfere with the finding in absence of any prejudice to the parties.

The default card is produced. There were about three more defaults other than those considered in the impugned order and award. The first incident which resulted into the penalty recorded by the departmental authority on 24.2.81 is in respect of incident of non-issuance of ticket. The order of penalty dated 29.8.83 is in relation to an incident also of non-issuance of tickets to 4 persons by the respondent conductor. The third penalty was in respect of collection of fare and non-issuance of ticket also. After having considered the facts and circumstances and the submissions raised on behalf of the parties by the learned advocates and also the relevant proposition of law and the fact of time-gap which is elapsed in between, the ends of justice will be met with if the impugned order and award is modified to the extent that the resultant monetary benefit on account of revocation of penalties dated 24.2.81, 29.8.83 is reduced to 50 per cent. In other words, without entering into the aspect as to whether the order of stoppage of two increments with future effect quashed by the Labour Court is justified or not, it would definitely be justified to restrict and reduce the monetary benefit arising out of restoration or revocation of orders of penalties recorded in the departmental inquiry to the extent of Rs.30,000/(Rupees thirty thousand only) out of the amount of Rs.65,941/- worked out and indicated in the petition, which is also deposited by the petitioner Corporation pursuant to the order of this Court passed on 4.10.96. The said amount of Rs.30,000/- shall be paid to the respondent workman by way of full and final satisfaction of the award of the Labour Court out of which an amount of Rs.5,000/- (Rupees five thousand) shall be paid to the petitioner by the Registrar of this Court by account payee cheque and remaining amount of Rs.25,000/- (Rupees twenty five thousand only) shall be deposited in a nationalised Bank in fixed deposit receipt for a period of not less than five years in the name of

respondent workman and the respondent workman will be entitled to interest which shall accrue periodically and such instructions shall be issued to the Bank.

In view of the aforesaid facts and circumstances, the petition is partly allowed with no order as to costs. Rule is made absolute to the aforesaid extent.

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